

## **ORDINANCE NO. 844**

### **AN ORDINANCE AMENDING CHAPTERS 2, 3, 4, 5, 6, 7, 8, AND 9 OF THE TROUTDALE DEVELOPMENT CODE BY CORRECTING ERRATA, COMPLYING WITH CHANGES TO STATE STATUTE, AND RE-ESTABLISHING PROVISIONS FOR SHARED HOUSING STANDARDS AND TYPE I VARIANCES.**

#### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. The Troutdale City Council approved comprehensive updates to the Troutdale Development Code after more than three years of efforts from the Planning Commission reviewing multiple drafts.
2. Upon the newly revised Code coming into effect, certain items were discovered by Staff to be missing or incorrectly referenced.
3. Upon consultation with Planning Commission, it was understood that these omissions were unintentional and not a deliberate change in policy, apart from a minor change to a state statute with regards to the extension of public commenting period for certain types of public agencies.
4. The Planning Commission has reviewed the proposed amendments for errata correction and re-establishing omitted language at a public hearing during the August 30, 2017 special meeting and unanimously voted to recommend these amendments as presented to City Council for approval.
5. No comments or concerns have been provided by the Oregon Department of Land Conservation and Development, Metro, or other review entities.

#### **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE**

- Section 1. Chapter 2 shall be amended as set forth in Attachment A.
- Section 2. Chapter 3 shall be amended as set forth in Attachment A.
- Section 3. Chapter 5 shall be amended as set forth in Attachment A.
- Section 4. Chapter 6 shall be amended as set forth in Attachment A.
- Section 5. Chapters 3, 4, 5, 6, 7, 8, and 9 shall be amended to correct non-substantive errata as set forth in Attachment B.

YEAS: 6  
NAYS: 0  
ABSTAINED: 0

  
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Casey Ryan, Mayor

9-29-2012  
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Date

  
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Sarah Skroch, City Recorder  
Adopted: September 26, 2017

**Text Amendment Proposal – Troutdale Development Code**

<b>TO:</b>	Troutdale City Council
<b>STAFF / APPLICANT:</b>	Chris Damgen, Community Development Director
<b>CASE FILE:</b>	<b>75-01</b>
<b>REQUEST:</b>	The City is proposing several amendments to the Troutdale Development Code (TDC) as a result of unintended omissions and errors from the most recent Development Code update.
<b>APPLICABLE CRITERIA:</b>	TDC Sections 2.065 and 6.1100
<b>INITIAL HEARING DATE:</b>	Wednesday, August 30, 2017
<b>CC HEARING DATE:</b>	Tuesday, September 12, 2017
<b>RECOMMENDATION:</b>	Planning Commission voted unanimously (7-0) to forward a recommendation for <b>approval</b> to City Council. Staff concurs with this recommendation.

**1. BACKGROUND**

The City of Troutdale completed a nearly three year comprehensive update to the Development Code (TDC). As can often be the case with major updates to plans or codes, once the Code went into implementation in May 2017, Staff discovered several errors and omissions in the Code that it believes warrant immediate attention and correction. This amendment application touches on several of these areas.

**2. REVIEW TIMELINE**

The current version of the TDC went into effect on Thursday, May 11, 2017. A Post-Acknowledgment Plan Application (PAPA) was submitted to the Oregon Department of Land Conservation and Development on Wednesday, July 12, 2017 to alert the agency of the City’s intentions. The initial public hearing was held at a special meeting of the Planning Commission on Wednesday, August 30, 2017. The City Council public hearing and first reading of the ordinance is to occur during the regular meeting on Tuesday, September 12, 2017.

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### 3. PROPOSED TEXT AMENDMENTS

The majority of changes with this text amendment proposal include minor fixes to errata that have no substantive impact on the Code or its interpretation. Examples include adding a numeric figure to a number [such as fifteen (15)], fixing spacing and formatting of the document, and making corrections to code references.

A complete reference list of these changes can be found with Exhibit B of the overall Staff Report. Some of these changes may also trigger changes in page numbering, which may result in the Table of Contents being updated for proper referencing.

There are five (5) substantive amendments proposed as outlined by Chapter below.

#### CHAPTER 2 - PROCEDURES FOR DECISION MAKING

There are two (2) substantive amendments proposed for this chapter:

##### Section 2.055 Type II Procedure

In subsection A, the present standards allow for “persons to submit information relevant to the criteria and standards that are pertinent to the proposal within fourteen (14) days [from the date of notice]”. Changes in state law now require 15 days for commenting on land use applications for certain agencies, including but not limited to drainage districts. As a result, the City anticipates several land use applications being affected.

Staff is proposing **changing the required comment period from 14 days to 15 days** in order to avoid differences in deadlines for different agencies and believes the addition of one day will have no impact on the timing in which an application is decided upon.

##### Section 2.075 Notice of Hearing

In the subsections, it describes required notification for nearby properties for Type II and Type III land use applications. No such requirement is called out for Type IV applications if property is under consideration, such as a map amendment.

Staff is proposing **adding the following words** to Section 2.075.B (in bold):

B. For property which is the subject of a Type III **or Type IV** application process [...]

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## CHAPTER 3 – ZONING DISTRICTS

There is one (1) substantive amendment proposed for this chapter:

### 3.040 Medium Density Residential (R-5)

The side, street side, and rear yard setbacks in the R-5 zoning districts were accidentally excluded. Staff is proposing to **restore these setback dimensions** as they were outlined in the previous Troutdale Development Code. This would constitute the following changes to Subsection 3.044.B, as shown in bold:

- B. Setbacks.*
  - 1. Front yard setback: Minimum of twenty (20) feet.*
  - 2. Side yard and street side yard setback: Minimum of five (5) feet and ten (10) feet on corner lots abutting a street. For duplex dwellings, common walls shall be located on the common property line with each dwelling situated on its own lot.*
  - 3. Rear yard setback: Minimum of fifteen (15) feet.*
  - ~~2.~~ *4. Projections into setbacks: See Chapter 5.020, Exceptions to Yard Requirements, of this Code.*
  - ~~3.~~ *5. Accessory structures in setback areas: See Chapter 5.010, Accessory Structures in Required Yards, of this Code.*

## CHAPTER 5 – MISCELLANEOUS USES, STANDARDS, AND EXCEPTIONS

There is one (1) substantive amendment proposed for this chapter.

The previous iteration of the Troutdale Development Code had allowances for congregate housing facilities which contained several standards for development. With changes in state law, the term congregate housing was removed from the Development Code along with separate standards, though no standards for shared dwellings were ever brought forth. Of particular concern was the unintended removal of the “density bonus” provision, which acknowledged that shared dwellings often had less of an impact. This amendment proposes inserting some performance measures and regulations to better accommodate development applications that intend to construct or provide shared dwelling units.

As a result, a **new section is proposed** within this chapter for shared dwellings as followed:

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#### Section 5.090 Shared Dwellings

*Shared Dwelling units as defined in section 1.020.45 of this code are intended to be a flexible housing arrangement that typically have less impact on surrounding properties than typical housing arrangements that provide a similar number of units. As a result, consideration is given in the following standards to provide flexibility:*

- A. *The maximum number of units allowed in a shared housing facility shall be fifty percent (50%) above the standard density of the underlying zoning district.*
- B. *Social and recreational space shall be provided at a minimum of fifteen (15) square feet per occupant, based on one person per bedroom.*
- C. *General storage area spaces at a minimum of ten (10) square feet within each unit, not including regular kitchen, bedroom, and linen storage.*
- D. *Laundry facilities shall be provided either in each unit or in an accessible space within the shared housing facility.*

## CHAPTER 6 – APPLICATIONS

There is one (1) substantive amendment proposed for this chapter.

### 6.1300 Variance

The previous Troutdale Development Code contained a Type I variance, often referred to as an Administrative Adjustment. It allowed for the Director to approve variances on dimensional standards of up to ten percent (10%) from the prevailing standard, provided that the application met approval criteria. The current Development Code no longer has this provision. In surveying members of the Planning Commission, there did not seem to be recollection of intentionally removing a Type I variance procedure.

**Staff is proposing re-instating a Type I variance procedure** that adheres to the current approval criteria listed for Type II and Type III variances. The insertion of this provision would cause renumbering of the section and a recalibration of Type II variances to be applicable for standards more than 10 percent and up to 30 percent. The proposed language is shown below, with proposed language in bold:

**6.1315 Type I Variance. The Director may grant a variance under the Type I procedure if the request involves the expansion or reduction of a quantifiable provision in this Code by no more than ten percent (10%), and the following criteria are met:**

- A. *Special circumstances or conditions including, but not limited to, lot size, lot shape, topography, or size or shape of building, apply to the property, development, or to the intended use and are not typical of the general conditions in the surrounding area; and*
  - B. *The variance authorized will not be injurious to adjacent properties or the surrounding neighborhood or otherwise detrimental to the public welfare; and*
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- C. *The variance authorized will be consistent with the general purpose and intent of the provision from which a variance is sought; and*
- D. *The variance is the minimum necessary to relieve a practical difficulty with full compliance and to avoid or minimize the resulting hardship.*

**6.1320 Type II Variance.** [Previously 6.1315] *The Director may grant a variance under the Type II procedure if the request involves the expansion or reduction of a quantifiable provision in this Code by **more than ten percent (10%), but not more than thirty percent (30%), and the criteria in section 6.1315 are met.***

**6.1325 Type III Variance.** [Previously 6.1320] [...] [includes a reference edit to reflect subsection renumbering]

**6.1330 Type III Special Variance.** [Previously 6.1325] [...]

**6.1335 Referral to Planning Commission.** [Previously 6.1330] [...] [includes a reference edit to reflect subsection renumbering]

#### 4. DECISION CRITERIA AND RECOMMENDED FINDINGS

TDC Section 2.065 specifies that the City Council is the decision-making body for text amendment applications after the Planning Commission forwards a recommendation for their consideration. Planning Commission is charged with making a finding for each applicable criterion point as listed in TDC Section 6.1120. City Council may adopt these findings or revise them accordingly.

Listed below are the adopted findings from Planning Commission based on testimony received at the August 30, 2017 public hearing and subsequent deliberation.

**A. The proposed change to the Development Code does not conflict with applicable Comprehensive Land Use Plan goals or policies.**

The majority of the amendments proposed in this application are not substantive in a way that could affect the Comprehensive Land Use Plan goals or policies. Of the ones that are, only the proposed additions to include shared housing standards would correspond with the Plan. Given that the standards as proposed in the new Section 5.090 were in the previous Development Code which in turn was found to be consistent with the City's Comprehensive Land Use Plan, there are no anticipated conflicts with this amendment. **The criterion is met.**

**B. The proposed change is consistent with the applicable Statewide Planning Goals.**

The majority of the amendments proposed in this application are not substantive in a way that would alter or jeopardize conformance to Statewide Planning Goals. In the administrative rules for Goal 10 (Housing), "plans should [...] allow for flexibility of housing location, type, and density." [OAR 660-015-0000(10)]. Providing clarification on the purpose of shared housing standards and allowing for density bonuses is consistent with Goal 10. **The criterion is met.**

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**C. The proposed change is consistent with the applicable provisions of Metro Code.**

The majority of the amendments proposed in this application are not substantive in a way that would alter or jeopardize conformance to the Metro Urban Growth Management Functional Plan. Of particular concern in Title 1 of the Functional Plan is to maintain housing capacity. The provisions in the shared housing standards would not decrease housing capacity for the City, but would instead potentially increase it due to the density bonus. **The criterion is met.**

**D. Public need is best satisfied by this particular change.**

Providing corrections and clarifications on provisions to the Development Code aids stakeholders who utilize the code to decisions on current and future utilization of their property. The majority of these amendments set forth to offer these items. The shared housing amendment restores provisions that were in place with previous versions of the Code that were inadvertently left out. **The criterion is met.**

**E. The change will not adversely affect the health, safety, and welfare of the community.**

The majority of the amendments proposed in this application are not substantive in a way that would affect health, safety, or welfare of the community. While the possibility for increased density exists with shared housing standards, the section provides clarification that their particular impact on a property and the surrounding area is generally less than one of a similar built characteristic. This is due to the occupants that typically reside in such arrangements having more limited means for mobility and accessibility, thus resulting in smaller rooms, shared facilities, and less trips generated by private vehicles. **The criterion is met.**

## **5. STAFF RECOMMENDATIONS**

Staff offers the following recommendations for the conduct of the September 12, 2017 public hearing for the proposed amendments to the Troutdale Development Code.

- A. Conduct a public hearing and receive all public testimony relating to the proposal.
  - B. Consider the public testimony, decision criteria, and recommended findings as presented in the staff report; and deliberate on policy issues, proposed amendments, and other issues identified during the public hearing.
  - C. Consider the second reading of this matter at a future City Council meeting and vote to adopt an ordinance amending the Troutdale Development Code as presented (or amended) based on meeting the decision criteria as presented (or amended).
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## List of Non-Substantive Items Proposed for Text Amendment

SECTION	CHANGE PROPOSED
Table of Contents	update page numbers as needed; add Section 5.090 (if adopted)
Chapter 3 ( <i>multiple</i> )	add references to Section 5.090 (if adopted) for shared dwellings
4.516.B.1	fix reference from Subsection (F) to (E)
4.516.C.4	fix spacing
4.517.H.2.a	add number [one (1)]
5.010.B.2	fix spacing
5.020.B.3	spell out two and one-half
5.315.A	add number [one (1)]
5.850.D.1	add the word “percent”
6.010.D.1	add number [one (1)]
6.200 ( <i>multiple</i> )	fix references to “Comprehensive Land Use Plan”, fix section numbering
6.320.D	fix spacing
6.515.A.3.b	add number [one (1)]
6.515.B.3.a	fix number sequence [second #3 to 4 and #4 to #5]
6.615.A.3.d	fix spacing
6.910	capitalize “city”
6.1300 ( <i>multiple</i> )	renumber sections and change references (if Type I Variance adopted)
6.1325	change the words “shall decide whether to” to “may” for consistency
7.050.C.6.f	add number [one (1)]
7.050.C.6.l	change reference from Section 8.010 to Section 8.040
7.080.A.2.b	add number [three (3)]
8.045.B	fix spacing
9.045.F	add number [three (3)]